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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,006	12/10/2003	Mark G. Reichmann	17142	9434

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EXAMINER

MATZEK, MATTHEW D

ART UNIT PAPER NUMBER

1771

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,006

Applicant(s)

REICHMANN ET AL.

Examiner

Matthew D. Matzek

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/29/04, 7/6/04</u> | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The Amendment and Remarks dated 11/14/2005 have been fully considered and entered into the Record. Claims 1-28 are currently pending and amended claim 25 contains no new matter. The rejection of claim 2 under 35 U.S.C. § 112, second paragraph has been withdrawn due to amendment.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-6, 8-12 and 15-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsai et al. (US 6,268,434 B1) as substantially set forth in the Office Action dated 8/12/2005.

3. Claims 1-6, 8-12 and 15-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsai et al. (US 5,976,694) as substantially set forth in the Office Action dated 8/12/2005.

Claim Rejections - 35 USC § 103

4. Claims 1-6, 8-12 and 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (US 6,506,873 B1) in view of Tsai (US 6,268,434 B1) as substantially set forth in the Office Action dated 8/12/2005.

5. Claims 7, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (US 6,506,873 B1) and Tsai (US 6,268,434 B1) and further in view of Fletcher et al. (US 2002/0111596 A1) as substantially set forth in the Office Action dated 8/12/2005.

Response to Arguments

6. Applicant's arguments filed 11/14/2005 have been fully considered but they are not persuasive.

Art Unit: 1771

7. Applicant argues that Tsai (US 6,268,434 B1) fails to teach a second polymer that is amorphous and that it discloses that the poly(lactic acid) polymer is crystallized and therefore cannot be used as the amorphous polymer. The section that Applicant has cited that allegedly teaches that the poly(lactic acid) polymer is crystallized recites “it is generally desirable to maximize the crystallization of the poly(lactic acid) polymer material” (col. 12, lines 22-24). The section before this teaches that the poly(lactic acid) polymer material is amorphous (col. 12, lines 17-21). Tsai teaches that heat-setting is generally desirable to heat-set the poly(lactic acid) materials to prevent heat-shrinkage during downstream thermal processing. This heat-setting results in the crystallization of the poly(lactic acid) polymer. The invention of Tsai alleviates the need for this additional processing step through the addition of polybutylene succinate polymer and a wetting agent to decrease the heat-shrinkage of the poly(lactic acid) polymer. Therefore, the poly(lactic acid) material of Tsai remains amorphous without the heat-treatment.

8. Applicant argues that the instantly claimed biodegradable aliphatic polyester polymers are not the same as the “water-sensitive polymers” of Tsai et al. (US 5,976,694) as none of the polymers described as being suitable water-sensitive polymers of Tsai are the same as the biodegradable aliphatic polyester polymers of the instantly claimed article. Examiner disagrees with this assessment as Tsai et al. teach the use of aliphatic polyester polymer polylactide (PLA) (col. 4, lines 9-11).

9. Applicant argues that a prima facie case of obviousness has not been established with regards to the rejection of claims 1-6, 8, 9-12 and 15-28 over Ryan et al. (US 6,506,873) in view Tsai (US 6,268,434 B1). In particular that a polymer blend comprising an amorphous second

Art Unit: 1771

polymer has not been taught in the two applied references. Examiner has demonstrated in Paragraph 7 of this Office Action that Tsai '434 does in fact teach an amorphous polymer.

10. Applicant argues that Examiner has provided no motivation to combine the teachings of Ryan et al. (US 6,506,873 B1) and Tsai (US 6,268,434 B1) and Fletcher et al. (US 2002/0111596 A1). Examiner stated in the Office Action dated 11/14/2005 that Ryan et al. teaches the use of polycaprolactone and Fletcher et al. teach a flushable absorbent assembly that may be made with amorphous polyalphaolefin. Therefore, in the common field of endeavor (i.e. biodegradable absorbent articles), polyalphaolefin and polycaprolactone are equivalents and as such are interchangeable polymers. This meets the limitations of instant claims 7, 13 and 14.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


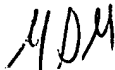
Art Unit: 1771

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm



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